

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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OSCAR MENDEZ, individually and on behalf
of all other persons similarly situated,

Plaintiffs

Index No. 12-CV-3202(JFB)(ATK)

-against-

AFFIDAVIT

LOUIE'S SEAFOOD RESTAURANT, LLC, and/or
any other entities affiliated with, controlling, or
controlled by LOUIE'S SEAFOOD RESTAURANT,
LLC, and/or MARTIN PICONE and MICHAEL
GUINNANE

Defendants
-----X

Martin Picone, swears under the penalty of perjury that the following is true accurate and
correct:

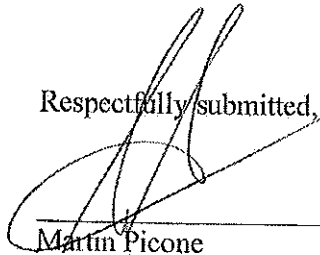
1. Contrary to the complaint paragraph 26, Plaintiff Oscar Mendez was a cook at Louie's Restaurant from July 2010 to May 2012, not from 2006. The proposed settlement figure is fair and reasonable to plaintiff since the range of plaintiff's possible recovery is de minimus.
2. As discussed with Mr. Mendez's counsel, Louie's paid plaintiff his proper overtime compensation during his employment at Louie's Restaurant.
3. As well, the spread of hours claim was not shown to be supported by documented evidence.
4. When we settled this case, it was our understanding that there were no other claims against Louie's.
5. It was a business decision to settle this case for \$17,000.00 based upon the cost of litigation and the time and effort and costs involved if the case had been continued.
6. Counsel for both parties had several extensive settlement discussions relating to this case, counsel fully representing plaintiff and arguing on his behalf. Plaintiff was satisfied with the

amount and was paid pursuant to the agreement in December 2012.


WHEREFORE, it is agreed by the parties that the amount of \$17,000.00 paid to settle this matter was fair and reasonable. It is respectfully requested that This Honorable Court consider this affidavit in support of the settlement in this matter.

Dated: Garden City, New York
May 31, 2013

Respectfully submitted,


Martin Picone

SWORN TO BEFORE ME
THIS 31ST DAY OF MAY, 2013


NOTARY PUBLIC

LAURA M. DILIMETIN
Notary Public State of New York
No #02DI4981367
Qualified in New York County
Commission Expires May 13, 2015